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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
AT ALBUQUERQUE NM

MAR - 3 1999

MARVIN BROWN,

Plaintiff,

ROBERT M. MARCH
CLERK

v.

No. CIV-97-0825 BB/RLP

CENTRAL NEW MEXICO
CORRECTIONS FACILITY,
JOE WILLIAMS, Warden,
KEVIN R. WIGGINS, Captain,
JOSE ROMERO, Captain,
EDWARD CHAVEZ, Segregation Chairman,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Plaintiff's response to the order of January 27, 1999, and, *sua sponte*, to review Plaintiff's civil rights complaint pursuant to 28 U.S.C. § 1915(e)(2) and Fed.R.Civ.P. 12(b)(6). Plaintiff is incarcerated, appearing pro se, and proceeding in forma pauperis. The initial partial payment toward the filing fee will be waived, and, for the reasons below, Plaintiff's claims against Defendant Central New Mexico Corrections Facility will be dismissed.

The complaint alleges that injuries Plaintiff received when he was attacked by other inmates were the result of Defendants' failure to provide adequate security. Plaintiff seeks damages. His claim against the correctional facility is the same as a claim for damages against the State itself. *See Neitzke v. Williams*, 490 U.S. 319, 327 (1989); *Will v. Mich. Dep't of State Police*, 491 U.S. 58, 71 (1989). Insofar as Plaintiff seeks damages against the State of New Mexico, his suit is barred in federal court by the State's Eleventh Amendment immunity. *See Griess v. Colorado*, 841 F.2d 1042,

1043-44 (10th Cir. 1988). Plaintiff's claim for damages against Central New Mexico Correctional Facility will be dismissed as frivolous pursuant to 28 U.S.C. § 1915(e).

IT IS THEREFORE ORDERED that the initial partial payment is WAIVED; Plaintiff is reminded that he is required to submit monthly financial certificates as required by 28 U.S.C. § 1915(b)(2).

IT IS FURTHER ORDERED that that Plaintiff's claims against Central New Mexico Correctional Facility are DISMISSED; and judgment shall be entered in accordance with this opinion; the Clerk is directed to issue summonses for the remaining Defendants in their individual capacities.


UNITED STATES DISTRICT JUDGE